

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
STATE OF CALIFORNIA, *et al.*,)
ex rel. JULIE LONG)
Plaintiffs,) Civil Action No. 16-cv-12182-FDS
)
v.) **FILED IN CAMERA AND UNDER**
JANSSEN BIOTECH, Inc.,) **SEAL PURSUANT TO 31 U.S.C. § 3730(b)**
Defendant.)

**UNITED STATES' NOTICE OF ELECTION TO
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action. The States of California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, and Washington; the Commonwealths of Massachusetts and Virginia, and the District of Columbia (the “Declining States”), through their counsel, have advised counsel for the United States that the Declining States, pursuant to their respective False Claims Act statutes, also wish to decline to intervene. The Declining States, through their counsel, have authorized the undersigned counsel for the United States to submit this consolidated federal and state Notice of Election to Decline on their behalf.

Although the United States declines to intervene, the United States respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.*

Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval. The Declining States request that the Court also solicit the written consent of the Declining States before ruling or granting its approval of the dismissal or settlement of any state causes of action.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the United States' counsel. The Declining States also request that all pleadings be served upon them, and that the relator be instructed to timely send to the Declining States all orders issued by the Court in this action. The United States and the Declining States reserve their rights to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim.

The United States and the Declining States also request that they be served with all notices of appeal.

Finally, the United States and Declining States request that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

Dated: August 8, 2019

By:


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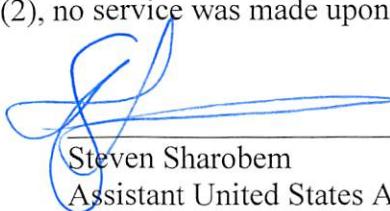
CERTIFICATE OF SERVICE

I certify that, on August 8, 2019, I caused a copy of the foregoing document to be served by e-mail on the relator's counsel:

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Pursuant to 31 U.S.C. § 3730(b)(2), no service was made upon the defendants because this case is still under seal.



Steven Sharobem
Assistant United States Attorney

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ORDER

The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), and the States of California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, and Washington, the Commonwealths of Massachusetts and Virginia, and the District of Columbia (the “Declining States”), having declined to intervene in this action pursuant to their state False Claims Act statutes, the Court rules as follows:

IT IS ORDERED that,

1. The complaint and any amended complaints be unsealed and served upon the defendant by the relator;
2. All other contents of the Court’s file in this action remain under seal and not be made public or served upon the defendant, except for this Order and the Notice of Election of the United States of America and the Declining States to Decline to Intervene, which the relator will serve upon the defendant after service of the amended complaint;

3. The seal be lifted as to all other matters occurring in this action after the date of this Order;

4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3), and shall also serve all pleadings and motions upon each Declining State as to which claims asserted on its behalf have not been properly dismissed. The relator shall send copies of all orders issued by the Court to each Declining State as to which claims asserted on its behalf have not been properly dismissed. The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;

5. The parties shall serve all notices of appeal upon the United States and the Declining States;

6. All orders of this Court shall be sent to the United States; and that

7. Should the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States and the Declining States before ruling or granting its approval.

IT IS SO ORDERED,

This _____ day of _____, 2019.

F. Dennis Saylor
United States District Judge